IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLASTE SIDE

WRIT PETITION NO. 6770 OF 2004

WITH

CIVIL APPLICATION NO. 749 OF 2006

Smt. Yashodabai Baban Barate
and others. ... Petitioners.

V/s.

Shri Ramchandra Baloba Ghodake
and others. ... Respondents.

K.R.Dhanuka with M.B.Jadhav
for the petitioner.

P.J.Pawar for the respondents.

CORAM: V.C.DAGA, J.

DATED: 10th March 2006.

P.C.:

. Heard finally by consent of parties.

2. This petition is directed against the order dated 11th August, 2004 passed by the Seventh Adhoc Additional District Judge, Pune refusing to condone delay in filing appeal against the judgment and decree dated 17th October, 2002 passed in Regular Civil Suit No.2037/1979 passed by the Second Joint Civil Judge, Senior Division. The reason given for delay was inaction and misdemeanour on the part of their Advocate in the trial Court. Their Advocate did not communicate the date of hearing of the suit.

The reason sought to be given in the application for condonation of delay in appeal did not appeal to the Appellate Court. It is expected on the part of the litigants to approach their respective advocates and find out the progress of their proceedings. If the litigant fails to keep in contact with his advocate, that advocate cannot be blamed.

3. However, without going to the niceties of the claim, the delay in filing appeal is condoned, subject to payment of costs of Rs.5,000/-. Costs be deposited with the lower appellate Court within two weeks from today.

4. Needless to mention that failure on the part of the petitioner to deposit the amount of costs with the trial Court, petition shall be deemed to have been dismissed without reference to the Court.

5. In the meanwhile, the order of status-quo granted by this Court vide order dated 18th August, 2004 shall operate till the lower appellate Courts takes up the appeal for admission. Parties to appear before the lower appellate Court on 15th April, 2006. In that event, the lower appellate Court would be free to consider the appeal on its own merits without

getting influenced by the orders of condonation of delay and status-quo passed by this Court. The petitioners undertake to carry hamdast of this order.

6. In view of disposal of the petition, no orders are necessary on the civil application. Civil applicants stands disposed of as infructuous with no order as to costs.

(V.C.DAGA, J.)